IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1824 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VASANTBHAI NAROTTAMBHAI PATEL - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR DHIRENDRA MEHTA for Petitioner
MS. TANUJA KACHCHHI, ASSTT. GOVERNMENT PLEADER for Respondents

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 18/06/2007

ORAL JUDGMENT

1. Shri D.K.Mehta, learned counsel for the petitioner; Ms. Tanuja Kachchhi, learned AGP for the respondents.

2. Shri D.K. Mehta, learned counsel for the petitioner submitted that different remand orders and final order passed by the Competent Authority or Gujarat Revenue Tribunal do not show conversion ratio nor do they show that on what basis the authorities have come to the conclusion that land of 35 acres and 20 gunthas could be converted into 81 acres and 31 gunthas. His further submission is that the authority could, at best, declare that the petitioner was possessed of excess land, but the authority could not declare a particular parcel or particular survey number as surplus. His submission is that if the orders of the authorities are accepted to be correct, then too, option ought to have been given to the petitioner to surrender particular parcel of land.

3. After going through the records, when I could not find conversion ratio or the principles relating to conversion and that no option had been given to the petitioner, I required the learned counsel for the State to show me from

the records. After going through the records, learned counsel for the State, though made various submissions in support of the orders, but was unable to show that in any order passed by any of the authority conversion ratio has been shown. Learned counsel was also unable to show that any option was offered to the petitioner to surrender particular land.

4. True it is that the certificate issued by the Canal Officer has not been challenged by the petitioner, but that does not mean that certificate of the Canal Officer could be used to convert the land into Jirayat land. That ought to have been done by the Mamlatdar cum ALT, that too, after giving due opportunity of hearing to the petitioner. Shri Mehta, learned counsel for the petitioner is also right in submitting that in case the petitioner is found to be in possession of the excess land, then, option to surrender particular parcel of land ought to have been given to the petitioner.

5. Taking into consideration the totality of the circumstances, I hold that the orders passed by

the Competent Authority and confirmed by the appellate and revisional authority cannot be allowed to stand. The said orders are hereby quashed. The matter is remanded back to the Competent Authority for giving details of conversion ratio and also to offer option to the petitioner to surrender particular parcel of land.

6. The petition is allowed. Rule is made absolute accordingly. No costs.

7. The parties present in the Court shall appear before the Competent Authority on 23rd July, 2007. The petitioner shall file copy of this order before the said authority enabling the authority to know as to what it is required to do.

[R.S. GARG, J.]

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